REMARKS/ARGUMENTS

This application is under final rejection. Applicant has presented arguments hereinbelow that Applicant believes should render the claims allowable. In the event, however, that the Examiner is not persuaded by Applicant's arguments, Applicant respectfully requests that the Examiner enter the amendment to clarify issues upon appeal.

This Amendment is in response to the Office Action dated July 19, 2004. Claims 1-4, 8-10, 14-16, 20-22, and 26-31 are pending. Claims 1-4, 8-10, 14-16, 20-22, and 26-31 are rejected. No claims have been amended or canceled. Accordingly, claims 1-4, 8-10, 14-16, 20-22, and 26-31 remain pending in the present application.

Claims 1, 2, 8-10, 14-15, 28, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sone (5,919,047) in view of Zampini et al. (5,488,669).

Applicant agrees with the Examiner that Sone does not disclose "storing the plurality of characteristics in at least one characteristics file associated with the first or the second digital audio file." The Examiner cites Zampini as teaching this limitations, stating:

> ...Zampini teaches "storing" user-defined cross-fading settings (Col. 4, lines 53-56) and (Col. 8, lines 54-58)1. This configuration is stored in non-volatile memory of the computer (Col. 5, line 1) and hence, inherently, can be in the form of computer file...

In the section "Response to Arguments", the Examiner further states:

> ...However, Zampini et al. do include storing custom crossfade curves for further use (Col. 6, lines 33-51 and Col. 8, lines 54-58). As it is well-known in the art, these curves necessarily must include at least some of the characteristics disclosed by Applicant (loudness, temp, etc.) Additionally, these custom curves must originate from at least two audio files. The user of Zampini's system would begin working with two songs, then adjust the fade-in and fade out settings for these songs and finally save the resulting custom cross fading configuration, which could be later used with other songs. (Col. 8, line 54-58). Therefore, the cross fading curve would implicitly incorporate the characteristics of the first and second songs and Zampini's system would save these characteristics in permanent memory. Since the cross fading curve of Zampini's system explicitly manipulates the fade-in and fade-out characteristics of the two songs, it would contain the final fade-in and fade-out settings, which in Applicant's case, are manually

entered by a user of the system...

Applicant respectfully disagrees. Zampini discloses an audio follow video mixer incorporating a manual cross fade learn feature. An operator may set the mixer so that a crossfade operation performed manually is stored in memory. Zampini "records" and saves the sequence of actions in the manual cross fade and then recalls these actions. These actions can then be repeated with different audio channels. Thus, the sequence of actions in Zampini is performed in an identical manner each time it is recalled, regardless of the characteristics of the audio channels being mixed.

In contrast, the method in accordance with the present invention automatically determines an appropriate cross-fading method based upon the characteristics of the digital audio files. Thus, the present invention goes beyond a "record" and "recall". The characteristics of the digital audio files would vary from audio file to audio file. Because the cross-fading method is based on the particular characteristics of the audio files, the cross-fading method would vary as the characteristics of the audio files vary. The cross-fading method would not be performed in an identical manner without regard to which audio files are being mixed. The storing of the sequence of actions in a manual cross face in Zampini is not analogous to the storing of characteristics in a characteristics file associated with the digital audio files.

In addition, Applicant respectfully disagrees with the Examiner's arguments concerning the custom crossfade curves. Specifically, Applicant disagrees with the Examiner's argument that "these curves necessarily must include at least one of the characteristics disclosed by Applicant (loudness, temp, etc.) Additionally, these custom curves must originate from at least two audio files..." The information stored in Zampini is a sequence of events, such as movement of individual faders, and is independent of the characteristics of the digital audio files being cross faded. Thus, the curves need not include the characteristics, as argued by the

Examiner. Also, the curved in Zampini originate in two ways: from the recording of physical actions taken by a person (e.g. turning a fader potentiometer) or manual pre-programming of a sequence of actions to be taken. In neither of these cases do the curves "original" from the source digital audio file.

Therefore, for the above reasons, Sone in view of Zampini does not teach or suggest associating the plurality of characteristics with the first and the second digital audio file and storing the plurality of characteristics in at least one characteristics file associated with the first or second digital audio file, in combination with the other elements as recited in independent claims 1, 10, 28, and 31.

Claims 3, 4, 16, 20, 21, 22, 26, 37, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sone in view of Zampini et al. and further in view of Lee (6,278,048).

Applicant respectfully disagrees. Applicant's arguments above concerning Sone in view of Zampini as applied to claims 1, 2, 8-10, 14-15, 28, and 31 apply here with equal force. Even if Lee teaches the limitations as argued by the Examiner, Sone in view of Zampini further in view of Lee still does not teach or suggest associating the plurality of characteristics with the first and the second digital audio file and storing the plurality of characteristics in at least one characteristics file associated with the first or second digital audio file, in combination with the other elements as recited in independent claims 16, 22, 29, and 30.
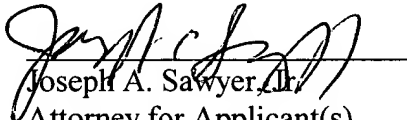

Therefore, for the above identified reasons, the present invention as recited in independent claims 1, 10, 16, 22, and 28-31 is neither taught nor suggested by the cited references. Applicant further submits that claims 2-4, 8-9, 14-15, 20-21, and 26-27 are also allowable because they depend on the above allowable base claims.

In view of the foregoing, Applicant submits that claims 1-4, 8-10, 14-16, 20-22, 26-31 are patentable over the cited references. Applicant, therefore, respectfully requests reconsideration and allowance of the claims as now presented.

Applicants' attorney believes this application in condition for allowance. Should any unresolved issues remain, Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Respectfully submitted,

SAWYER LAW GROUP LLP

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Joseph A. Sawyer, Jr.
Attorney for Applicant(s)
Reg. No. 30,801
(650) 493-4540